

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 295

Introduced by Senator Dutton

(Coauthors: Senators Cox and Runner)

(Coauthors: Assembly Members Bill Berryhill, DeVore, Fuller, Hagman,
Jeffries, Niello, and Silva)

February 25, 2009

An act to ~~amend Section 38563 of, and to add Section 38561.5 to;~~
the Health and Safety Code, relating to air pollution, and declaring the
urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 295, as amended, Dutton. California Global Warming Solutions
Act of 2006.

The California Global Warming Solutions Act of 2006 requires the
State Air Resources Board to adopt regulations to require the reporting
and verification of emissions of greenhouse gases and to monitor and
enforce compliance with the reporting and verification program, and
requires the state board to adopt a statewide greenhouse gas emissions
limit equivalent to the statewide greenhouse gas emissions level in 1990
to be achieved by 2020. The act requires the state board to prepare and
approve a scoping plan for achieving the maximum technologically
feasible and cost-effective reductions in greenhouse gas emissions. The
state board is required to evaluate the total potential costs and total
potential economic and noneconomic benefits of the plan. The state
board is required by January 1, 2011, to adopt greenhouse gas emissions
limits and emission reduction measures by regulation to achieve the
prescribed emission reductions.

~~This bill, notwithstanding this provision or any other provision of law, would prohibit the state board or its staff from beginning to develop these regulations until July 1, 2009, and until the would require the state board reevaluates to complete a study to reevaluate the evaluation of costs discussed above, and provide this study to the Legislature by October 1, 2009. The bill would prohibit the state board from implementing those regulations until the unemployment rate in the state is below 5.8% for 3 consecutive months. The bill would also require the state board to evaluate, and make public, the costs of those regulations. The state board would be required to report to the Legislature by November 1, 2009, on whether the revised analysis has led, or will lead, to any changes to the scoping plan, and whether any changes should be made to the act's timelines. The bill would require the Legislative Analyst to review the state board's implementation of these requirements, as provided.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. The Legislature finds and declares all of the~~
- 2 ~~following:~~
- 3 ~~(a) The State Air Resources Board is required by the California~~
- 4 ~~Global Warming Solutions Act of 2006 to design emission~~
- 5 ~~reduction measures to meet a statewide emissions limit for~~
- 6 ~~greenhouse gases in a manner that minimizes costs and maximizes~~
- 7 ~~benefits for California's economy.~~
- 8 ~~(b) The State Air Resources Board is required to consider the~~
- 9 ~~economic impacts of the measures identified in its scoping plan~~
- 10 ~~through an economic analysis.~~
- 11 ~~(c) The Legislative Analyst found that the economic analysis~~
- 12 ~~of the scoping plan adopted on December 11, 2008, was~~
- 13 ~~inconsistent and incomplete. Peer reviewers also criticized the~~
- 14 ~~economic analysis.~~
- 15 ~~(d) The State Air Resources Board has committed to perform~~
- 16 ~~a new economic analysis by December 31, 2009.~~

1 ~~(e) In February 2009, the California unemployment rate rose to~~
2 ~~10.5 percent. State budget revenues are declining and California,~~
3 ~~as well as the nation, is in the midst of a significant recession.~~

4 ~~(f) Given the severity of the current economic situation, and the~~
5 ~~lack of reliable economic analysis of the impacts of the measures~~
6 ~~in the scoping plan, the State Air Resources Board should perform~~
7 ~~a useful and complete economic analysis of the scoping plan as~~
8 ~~soon as possible to inform policymakers about the economic impact~~
9 ~~of the plan.~~

10 ~~(g) The State Air Resources Board has the resources and~~
11 ~~information needed to perform a valid economic analysis by July~~
12 ~~1, 2009.~~

13 ~~SEC. 2.~~

14 ~~SECTION 1.~~ Section 38561.5 is added to the Health and Safety
15 Code, to read:

16 38561.5. (a) ~~Notwithstanding Section 38562 or any other~~
17 ~~provision of law, the state board or its staff shall not begin to~~
18 ~~develop the regulations described in Section 38562 until all of the~~
19 ~~following occur:~~

20 ~~(1) July 1, 2009, at the earliest.~~

21 ~~(2) The state board has completed an additional peer-reviewed~~
22 ~~(1) The state board shall complete an additional peer-reviewed~~
23 ~~study to reevaluate the evaluations made pursuant to subdivision~~
24 ~~(d) of Section 38561 that takes into consideration any~~
25 ~~peer-reviewed comments on the original evaluations. This~~
26 ~~additional study shall include all of the following:~~

27 (A) Estimates of the actual costs in every year, and for every
28 sector of the economy, of the recommendations identified in the
29 scoping plan adopted pursuant to Section 38561, and shall not
30 include only annual averaged costs.

31 (B) Estimates of overall costs and savings and the
32 cost-effectiveness of the reductions identified in the scoping plan
33 adopted pursuant to Section 38561, including appropriate inclusion
34 of reductions in copollutants.

35 (C) Estimates of the timing of capital investments, annual
36 expenditures to repay those investments, and the resulting cost
37 savings.

38 (D) Sensitivity of the results to changes in key inputs, including
39 energy price forecasts and estimates of measure costs and savings.

40 (E) Impacts on small businesses.

1 ~~(3) The Legislative Analyst has certified that the study required~~
2 ~~by paragraph (2) has been completed.~~

3 ~~(b) Notwithstanding Section 38562 or any other provision of~~
4 ~~law, the state board shall not implement the regulations described~~
5 ~~in Section 38562 until the unemployment rate in the state is below~~
6 ~~5.8 percent for three consecutive months. The state board shall not~~
7 ~~be required to suspend regulations implemented after the~~
8 ~~unemployment rate in the state is below 5.8 percent for three~~
9 ~~consecutive months, if the unemployment rate again rises to 5.8~~
10 ~~percent or greater.~~

11 ~~(c) The state board shall evaluate, and make public, the costs~~
12 ~~of each regulation adopted pursuant to Section 38562.~~

13 ~~SEC. 3. Section 38563 of the Health and Safety Code is amended~~
14 ~~to read:~~

15 ~~385.63. Except as provided in Section 38561.5, nothing in this~~
16 ~~division restricts the state board from adopting greenhouse gas~~
17 ~~emission limits or emission reduction measures prior to January~~
18 ~~1, 2011, imposing those limits or measures prior to January 1,~~
19 ~~2012, or providing early reduction credit where appropriate.~~

20 ~~(F) The current state of the California economy.~~

21 ~~(G) The impact, if any, of increased federal funding for green~~
22 ~~technology as a result of the American Recovery and Reinvestment~~
23 ~~Act of 2009 (Public Law 111-5).~~

24 ~~(H) An explanation of how each measure in the scoping plan is~~
25 ~~considered to be cost effective.~~

26 ~~(2) The state board shall provide the study required by this~~
27 ~~subdivision to the Legislature by October 1, 2009.~~

28 ~~(b) The state board shall report to the Legislature by November~~
29 ~~1, 2009, on whether the analysis made pursuant to subdivision (a)~~
30 ~~has led, or will lead, to changes to the scoping plan adopted~~
31 ~~pursuant to Section 38561, including, but not limited to, changes~~
32 ~~in the mix of measures identified in that plan. The state board shall~~
33 ~~also include in the report recommended changes to the timelines~~
34 ~~included in this division, if the analysis made pursuant to~~
35 ~~subdivision (a) makes changes to the timelines advisable or~~
36 ~~necessary. This section does not authorize the state board to adjust~~
37 ~~any timelines included in this division.~~

38 ~~(c) (1) The Legislative Analyst shall review the study required~~
39 ~~by subdivision (a) and the report required by subdivision (b), and~~

1 *report to the Legislature by December 1, 2009, on all of the*
2 *following:*

3 *(A) To the extent possible, a critique of the adequacy of the*
4 *analysis of economic impacts in support of measures proposed in*
5 *the scoping plan and the reasonableness of the conclusions drawn*
6 *from that analysis.*

7 *(B) Identify measures proposed in the scoping plan that lack a*
8 *supporting economic impact analysis.*

9 *(C) Evaluate whether the state board has complied with the*
10 *requirements of this section.*

11 *(2) The Legislative Analyst may provide any analysis or*
12 *information in addition to what is required by paragraph (1).*

13 *(3) The state board shall provide to the Legislative Analyst the*
14 *information necessary to complete the requirements of this*
15 *subdivision in the timeframe provided in this subdivision.*

16 ~~SEC. 4.~~

17 *SEC. 2.* This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety within
19 the meaning of Article IV of the Constitution and shall go into
20 immediate effect. The facts constituting the necessity are:

21 In order to ensure that the adoption of greenhouse gas emission
22 reduction regulations does not negatively impact the state's
23 economy, it is necessary that this act take effect immediately.